

an underground source of drinking water.

(2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one-quarter (1/4) mile of the well contains an underground source of drinking water.

(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under paragraph (a)(1) or (d) (1) and (2) of this section (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to § 146.04).

(e) *Class V.* Injection wells not included in Classes I, II, III, or IV.

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§ 144.7 Identification of underground sources of drinking water and exempted aquifers.

(a) The Director may identify (by narrative description, illustrations, maps, or other means) and shall protect, except where exempted under paragraph (b) of this section, as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" in § 144.3. Even if an aquifer has not been specifically identified by the Director, it is an underground source of drinking water if it meets the definition in § 144.3.

(b)(1) The Director may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite, all aquifers or parts thereof which the Director proposes to designate as exempted aquifers using the criteria in 40 CFR 146.04.

(2) No designation of an exempted aquifer submitted as part of a UIC Program shall be final until approved by the Administrator as part of a UIC program.

(3) Subsequent to program approval or promulgation, the Director may, after notice and opportunity for a public hearing, identify additional exempted aquifers. For approved State programs exemption of aquifers identified (i) under § 146.04(b) shall be treated as a program revision under § 145.32; (ii) under § 146.04(c) shall become final if the State Director submits the exemption in writing to the Administrator and the Administrator has not disapproved the designation within 45 days. Any disapproval by the Administrator shall state the reasons and shall constitute final Agency action for purposes of judicial review.

(c)(1) For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption under § 146.04(b)(1) to furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method, and a time-table of planned development of the mining zone shall be considered by the Director in addition to the information required by § 144.31(g).

(2) For Class II wells, a demonstration of commercial producibility shall be made as follows:

(i) For a Class II well to be used for enhanced oil recovery processes in a field or project containing aquifers from which hydrocarbons were previously produced, commercial producibility shall be presumed by the Director upon a demonstration by the applicant of historical production having occurred in the project area or field.

(ii) For Class II wells not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.

§ 144.8 Noncompliance and program reporting by the Director.

The Director shall prepare quarterly and annual reports as detailed below. When the State is the permit-issuing authority, the State Director shall submit any reports required under this section to the Regional Administrator. When EPA is the permit-issuing authority, the Regional Administrator shall submit any report required under this section to EPA Headquarters.

(a) *Quarterly reports.* The Director shall submit quarterly narrative reports for major facilities as follows:

(1) *Format.* The report shall use the following format:

(i) Provide an alphabetized list of permittees. When two or more permittees have the same name, the lowest permit number shall be entered first.

(ii) For each entry on the list, include the following information in the following order:

(A) Name, location, and permit number of the noncomplying permittees.

(B) A brief description and date of each instance of noncompliance for that permittee. Instances of noncompliance may include one or more the kinds set forth in paragraph (a)(2) of this section. When a permittee has noncompliance of more than one kind, combine the information into a single entry for each such permittee.

(C) The date(s) and a brief description of the action(s) taken by the Director to ensure compliance.

(D) Status of the instance(s) of noncompliance with the date of the review of the status or the date of resolution.

(E) Any details which tend to explain or mitigate the instance(s) of noncompliance.

(2) *Instances of noncompliance to be reported.* Any instances of noncompliance within the following categories shall be reported in successive reports until the noncompliance is reported as resolved. Once noncompliance is reported as resolved it need not appear in subsequent reports.

(i) *Failure to complete construction elements.* When the permittee has failed to complete, by the date specified in the permit, an element of a compliance schedule involving either planning for construction or a construction step (for example, begin construction, attain op-

eration level); and the permittee has not returned to compliance by accomplishing the required elements of the schedule within 30 days from the date a compliance schedule report is due under the permit.

(ii) *Modifications to schedules of compliance.* When a schedule of compliance in the permit has been modified under § 144.39 or § 144.41 because of the permittee's noncompliance.

(iii) *Failure to complete or provide compliance schedule or monitoring reports.* When the permittee has failed to complete or provide a report required in a permit compliance schedule (for example, progress report or notice of noncompliance or compliance) or a monitoring report; and the permittee has not submitted the complete report within 30 days from the date it is due under the permit for compliance schedules, or from the date specified in the permit for monitoring reports.

(iv) *Deficient reports.* When the required reports provided by the permittee are so deficient as to cause misunderstanding by the Director and thus impede the review of the status of compliance.

(v) *Noncompliance with other permit requirements.* Noncompliance shall be reported in the following circumstances:

(A) Whenever the permittee has violated a permit requirement (other than reported under paragraph (a)(2) (i) or (ii) of this section), and has not returned to compliance within 45 days from the date reporting of noncompliance was due under the permit; or

(B) When the Director determines that a pattern of noncompliance exists for a major facility permittee over the most recent four consecutive reporting periods. This pattern includes any violation of the same requirement in two consecutive reporting periods, and any violation of one or more requirements in each of four consecutive reporting periods; or

(C) When the Director determines significant permit noncompliance or other significant event has occurred, such as a migration of fluids into a USDW.

(vi) *All other.* Statistical information shall be reported quarterly on all other instances of noncompliance by major facilities with permit requirements not